

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

MARK GRAVES,)	
)	
Plaintiff,)	Case No.: 4:12-cv-21
)	
v.)	<u>ORDER</u>
)	
DAVID AUSTIN and DANVILLE)	By: Hon. Jackson L. Kiser
POLICE DEPARTMENT,)	Senior United States District Judge
)	
Defendants.)	

Before me are Defendant David Austin's Second Motion for Judgment on the Pleadings [ECF No. 22] and Defendant Danville Police Department's ("DPD") Motion to Dismiss for Failure to State a Claim [ECF No. 24]. *Pro se* Plaintiff Mark Graves was served with both Motions, as well as a notice pursuant to Roseboro v. Garrison, but he did not respond. The matter was set for oral argument on November 29, 2012, but Plaintiff did not appear to defend against the Motions. Defendants submitted their respective Motions on the briefs, and the matter is now ripe for decision. For the reasons stated in the Memorandum Opinion filed herewith, I will construe Defendant Austin's Motion under Rule 12(c) as a motion under Rule 12(b)(6), and I hereby **GRANT** the Motion. I also **GRANT** Defendant DPD's Motion to Dismiss.

The Clerk is directed to forward a copy of this Order and the accompanying Memorandum Opinion to all parties and counsel of record, and to dismiss this case from the docket of the Court.

Entered this 3rd day of December, 2012.

s/Jackson L. Kiser
SENIOR UNITED STATES DISTRICT JUDGE